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March 25, 2003

James O. McReynolds
County Administrator
PO Box 532
Yorktown, VA 23690

RE: SLAIGHT'S WHARF and SHIRLEY ROAD RIGHT-OF-WAY

Dear Mr. McReynolds:

This is to provide you with a formal request for the abandonment of the above referenced facility and the associated public access right of way along Shirley Road. I have attached an exhibit prepared by our surveyors, Davis and Associates, for your use and evaluation. It is requested that the Board of Supervisors determine, pursuant to Section 33.1-151 of the Code of Virginia, that the public landing and the associated right-of-way are no longer necessary for the uses of the secondary system and that they should be abandoned. Subsequently, our client, Seaford Scallop Co., Inc., would intend to request that it be conveyed the abandoned right-of-way by the Commonwealth.

In support of the request, the following information is provided:

COMPANY BACKGROUND - Opening for business in 1979 at the end of Shirley Road in Seaford, the company currently operates a fleet of 22 deep-sea fishing vessels and employs approximately 222 people, including crew personnel. The company vessels catch and land sea scallops from along the contiguous continental shelf in the Atlantic Ocean. Still based in Seaford, the approximate annual gross revenues of the company are \$10-12 million.

In 1987, a sister company, Wells Ice & Cold Storage (WICS), was formed across Shirley Road from the Seaford Scallop facility. WICS provides storage, packaging, and marketing services for the scallops caught by the Seaford vessels. The approximate annual gross revenues of WICS are \$10-12 million.

Please visit our website at www.jbwk.com

REGULATORY ENVIRONMENT - The North American scallop industry is regulated by the National Marine Fisheries Service (NMF) through the Mid-Atlantic Fisheries Management Council. This agency manages the fishery resource by promulgating regulations designed both to provide equal access for all licensed users and to maintain a sustainable scallop resource for future generations. In 1994, the NMF instituted regulations that restricted the number of calendar days a licensed scallop vessel could fish to 204. In 2003, a similar NMF regulation further reduced that number to 120 days. Now awaiting implementation, a new NMF regulation will allow only 90 days of fishing during a calendar year. The net effect of this restriction is more time at the pier for the Seaford vessels.

DEMONSTRATED NEED - Through a series of marine construction projects beginning in 1979, we have filled the riparian areas of both the Seaford Scallop and WICS properties with mooring facilities. Under the current 120-day NMF restriction, the Seaford vessels are sometimes rafted from the piers along the edge of the Back Creek navigation channel.

ALTERNATIVES ANALYSIS - In an effort to remedy the congestion and accommodate the need for additional mooring space, the adjoining 3.4-acre upstream property, formerly owned by David Greenwood, was purchased with the intent of extending the existing pier upstream from the WICS facility. In order to achieve this use, however, the Greenwood property will have to be re-zoned from residential to commercial use, and other regulatory permits for dredging and pier construction obtained.

As an alternative, the acquisition of Slaughter's Wharf and the associated right of way will allow the company to moor several vessels at the existing pier facility, thereby reducing the upstream length of pier needed in front of the Greenwood property. This plan is the preferred alternative for Seaford Scallop.

MITIGATION - Unavoidable impacts associated with the implementation of the above-described preferred plan and the proposed mitigation for these impacts include the following:

1. Impacts on adjoining residential neighbors derived from the change in zoning on the Greenwood property from residential to commercial.

As mitigation, we are proposing to leave a 150' wide lot, including the Greenwood house and accessory building, in residential use. In addition and in accordance with county zoning ordinance requirements, we will provide a 25' transitional buffer with privacy fence along the new lot line separating the residential and commercial uses. See the attached exhibit for the specifics of this proposal. And, by virtue of the additional mooring space(s) provided at Slaughter's Wharf, the new pier extending upstream from WICS will observe a ten-foot offset from the new lot line on the Greenwood property, thus leaving the riparian area in front of the Greenwood house open for residential use.

and access. The net effect of this mitigation proposal is to keep the expanded commercial operations as far as possible from the neighboring residences.

2. Impacts on users of the existing public pier facilities at Slaughter's Wharf.

As mitigation for the loss of this public access we are proposing one of two alternatives at your election:

Alternative A. We will donate in fee a 15' wide strip of land extending from Shirley Road to Back Creek, together with two parking spaces along Shirley

Road, to the county or other appropriate public agency. The purpose of the donation is to replace the public access to the waterway. At the shoreline, we will construct, at no cost to the county, an open pile pier of reasonable specification that will provide foot access from the highland across the tidal wetlands to the State-owned subaqueous portions of Back Creek; or,

Alternative B. We propose to provide an in lieu fee to an appropriate county fund that will utilize the money for improvements to public access facilities. One such fund may be the proposed Yorktown pier facility. The amount of the in lieu fee is to be based on the value of the 15' wide strip of land plus improvements described in Alternative A above.

In closing, we believe this request for abandonment is consistent with VDOT's requirements under Virginia Code Section 33.1-151, which indicate in that the facility could be deemed unnecessary if it does not have any known public usage, which is the case. Furthermore, a duplicate, more modern, facility is available for public usage at Back Creek Park, a short distance upstream from the Slaughter's Wharf site.

Thank you for the opportunity to provide the county with this request. If you have any questions concerning the information provided please do not hesitate to call at any time. We look forward to continuing to work with you on this project.

Very truly yours,

JONES, BLECHMAN, WOLTZ & KELLY, P.C.



Conway H. Sheild, III

CHS/art

cc: William S. Wells, Jr., Seaford Scallop w/ Attachment

William B. Ellen

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